

“(aa) the Secretary;

“(bb) the Chairman or Ranking Member of the Committee on Banking, Housing, and Urban Affairs of the Senate; or

“(cc) the Chairman or Ranking Member of the Committee on Banking and Financial Services of the House of Representatives.

“(III) PROHIBITION ON GIFTS FROM OUTSIDE SOURCES.—

“(aa) IN GENERAL.—Subject to item (bb), an individual who is a member of the consensus committee may not solicit or accept a gift of services or property (including any gratuity, favor, discount, entertainment, hospitality, loan, forbearance, or other item having monetary value), if the gift is solicited or given because of the status of that individual as a member of the consensus committee.

“(bb) EXCEPTIONS.—The Secretary shall by regulation establish such exceptions to item (aa) as the Secretary determines to be appropriate, which shall include an exception for de minimis gifts.

On page 55, line 2, insert “with respect to a proposed revised standard submitted by the consensus committee under paragraph (4)(A)” after “paragraph (5)”.

On page 55, line 5, strike “proposed standard or regulation” and insert “proposed revised standard”.

On page 55, strike lines 7 and 8, and insert the following:

“(A) the proposed revised standard—

On page 55, line 18, strike “or regulation”.

On page 55, line 19, strike “or regulation”.

On page 55, lines 21 and 22, strike “standards or regulations proposed by the consensus committee” and insert “standard”.

On page 71, strike line 3 and insert the following:

“(3) PAYMENTS TO STATES.—On and after the effective date of the Manufactured Housing Improvement Act of 2000, the Secretary shall continue to fund the States having approved State plans in the amounts which are not less than the allocated amounts, based on the fee distribution system in effect on the day before such effective date.”.

NOTICES OF HEARINGS

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. MURKOWSKI. Mr. President, I would like to announce for the information of the Senate and the public that the legislative hearing regarding S. 1756, the National Laboratories Partnership Improvement Act of 1999; and S. 2336, the Networking and Information Technology Research and Development for Department of Energy Missions Act, which had been previously scheduled for Tuesday, May 9, 2000 at 2:30 p.m. in room SD-366 of the Dirksen Senate Office Building in Washington, D.C. has been cancelled.

For further information, please call Trici Heninger or Bryan Hannegan at (202) 224-7875.

SUBCOMMITTEE ON NATIONAL PARKS, HISTORIC PRESERVATION AND RECREATION

Mr. THOMAS. Mr. President, I would like to announce for the information of the Senate and the public that a hearing has been scheduled before the Subcommittee on National Parks, Historic Preservation, and Recreation of the Committee on Energy and Natural Resources.

The purpose of this hearing is to receive testimony on S. 1584, a bill to establish the Schuylkill River Valley National Heritage Area in the State of Pennsylvania; S. 1685 and H.R. 2932, a bill to authorize the Golden Spike/Crossroads of the West National Heritage Area; S. 1998, a bill to establish the Yuma Crossing National Heritage Area; S. 2247, a bill to establish the Wheeling National Heritage Area in the State of West Virginia, and for other purposes; S. 2421, a bill to direct the Secretary of the Interior to conduct a study of the suitability and feasibility of establishing an Upper Housatonic Valley Heritage Area in Connecticut and Massachusetts; and S. 2511, a bill to establish the Kenai Mountains-Turnagain Arm National Heritage Area in the State of Alaska, and for other purposes.

The hearing will take place on Thursday, May 18, 2000 at 2:30 p.m. in room SD-366 of the Dirksen Senate Office Building in Washington, DC.

Because of the limited time available for the hearing, witnesses may testify by invitation only. However, those wishing to submit written testimony for the hearing record should send two copies of their testimony to the Committee on Energy and Natural Resources, United States Senate, SD-364 Dirksen Senate Office Building, Washington, DC 20510-6150.

For further information, please contact Jim O'Toole or Kevin Clark of the Committee staff at (202) 224-6969.

SUBCOMMITTEE ON NATIONAL PARKS, HISTORIC PRESERVATION, AND RECREATION

Mr. THOMAS. Mr. President, I would like to announce for the information of the Senate and the public that an oversight hearing has been scheduled before the Subcommittee on National Parks, Historic Preservation, and Recreation of the Committee on Energy and Natural Resources. The purpose of this hearing is to receive testimony on the potential ban on snowmobiles in Yellowstone and Grand Teton National Parks and the recent decision by the Department of the Interior to prohibit snowmobile activities in other units of the National Park System.

The hearing will take place on Thursday, May 25 at 2:30 p.m. in room SD-366 of the Dirksen Senate Office Building in Washington, DC.

Because of the limited time available for the hearing, witnesses may testify by invitation only. However, those wishing to submit written testimony for the hearing record should send two copies of their testimony to the Committee on Energy and Natural Resources, United States Senate, SD-364 Dirksen Senate Office Building, Washington, DC 20510-6150.

For further information, please contact Jim O'Toole or Kevin Clark of the Committee staff at (202) 224-6969.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ARMED SERVICES

Mr. INHOFE. Mr. President, I ask unanimous consent that the full Committee on Armed Services be authorized to meet at 9:30 a.m. on Thursday, May 4, 2000, in executive session, to mark up the FY 2001 defense authorization bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ARMED SERVICES

Mr. INHOFE. Mr. President, I ask unanimous consent that the full Committee on Armed Services be authorized to meet at 2 p.m. on Thursday, May 4, 2000, in executive session, to mark up the FY 2001 defense authorization bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. INHOFE. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be authorized to meet on Thursday, May 4, 2000, at 9:30 a.m. on the nominations of members of the Federal Aviation Management Advisory Council (8 nominees).

The PRESIDING OFFICER. Without objection, it is so ordered.

JOINT COMMITTEE ON TAXATION

Mr. INHOFE. Mr. President, I ask unanimous consent that the Joint Committee on Taxation be authorized to meet during the session of the Senate on Thursday, May 4, 2000 to hear testimony on Medicare Governance: The Health Care Financing Administration's Role and Readiness in Reform.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON FORESTS AND PUBLIC LANDS

Mr. INHOFE. Mr. President, I ask unanimous consent that the Subcommittee on Forests and Public Lands of the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate on Thursday, May 4, at 2:30 p.m. to conduct an oversight hearing. The subcommittee will receive testimony on the United States Forest Service's use of current and proposed stewardship contracting procedures, including authorities under section 347 of the 1999 omnibus appropriations act, and whether these procedures assist or could be improved to assist forest management activities to meet goals of ecosystem management, restoration, and employment opportunities on public lands.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON IMMIGRATION

Mr. INHOFE. Mr. President, I ask unanimous consent that the Subcommittee on Immigration be authorized to meet to conduct a hearing on

Thursday, May 4, 2000, at 2 p.m., in Dirksen 226.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON NEAR EASTERN AND SOUTH ASIAN AFFAIRS

Mr. INHOFE. Mr. President, I ask unanimous consent that the Subcommittee on Near Eastern and South Asian Affairs of the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, May 4, 2000, at 10 a.m. to hold a hearing.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON OVERSIGHT OF GOVERNMENT MANAGEMENT, RESTRUCTURING AND THE DISTRICT OF COLUMBIA

Mr. INHOFE. Mr. President, I ask unanimous consent that the Subcommittee on Oversight of Government Management, Restructuring and the District of Columbia be authorized to meet on Thursday, May 4, 2000, at 10 a.m. for a hearing entitled "Has Government Been 'Reinvented'?"

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON PRODUCTION AND PRICE COMPETITIVENESS

Mr. INHOFE. Mr. President, I ask unanimous consent that the Subcommittee on Production and Price Competitiveness of the Committee on Agriculture, Nutrition, and Forestry be authorized to meet during the session of the Senate on Thursday, May 4, 2000, at 2 p.m., in SR-332, to conduct a subcommittee hearing on carbon cycle research and agriculture's role in reducing climate change.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROPOSED "REMEDIES" IN THE MICROSOFT ANTITRUST CASE

Mr. GORTON. Mr. President, I would like to take a few minutes to talk about the proposed remedies submitted last Friday by the U.S. Department of Justice and 17 States in the antitrust suit against Microsoft. As my colleagues know, the Department of Justice and the States have asked the court to break Microsoft into two separate companies, and to require significant Government regulation of the two companies.

Let's begin by reviewing the charges in the case. First, the Government has alleged that Microsoft entered into a series of agreements with software developers, Internet Service Providers, Internet content providers, and online services like AOL, that foreclosed Netscape's ability to distribute its Web browsing software. Despite claims by Government lawyers and outside commentators that this was the strongest part of the Government's case, the trial court—even Judge Jackson—disagreed. The court ruled that Microsoft's agreements did not deprive

Netscape of the ability to reach PC users. Indeed, the trial court pointed out the many ways in which Netscape could, and did, distribute Navigator. Direct evidence of this broad distribution can be found in the fact that the installed base of Navigator users increased from 15 million in 1996 to 33 million in late 1998—the very period in which the Government contends that Microsoft foreclosed Netscape's distribution.

The second charge involves what the Government alleged was the unlawful "tying" of Internet Explorer to Windows. The Government argued that this "tying" was one of the primary means by which Microsoft foreclosed Netscape's ability to distribute Navigator. The trial court agreed with the Government, finding that Microsoft violated Section 1 of the Sherman Act in its design of Windows 95 and 98. The court's conclusion is astounding in two respects. First, as I mentioned, the trial court determined that Microsoft had not deprived Netscape of distribution opportunities. Second, and even more important, the trial court's conclusion is in direct contradiction to that of the District of Columbia Circuit Court of Appeals. In June, 1998—before the antitrust trial even began—that court of appeals rejected the charge that the inclusion of Internet Explorer in Windows 95 was wrongful. In its June, 1998 decision, the appeals court stated that "new products integrating functionalities in a useful way should be considered single products regardless of market structure." Despite the fact that trial courts are obliged to follow the rulings of appellate courts, the trial court in the Microsoft case has singularly failed to do so.

In its third charge, the Government alleged that Microsoft held a monopoly in Intel-compatible PC operating systems, and maintained that monopoly through anticompetitive tactics. The trial court agreed, and determined that there were three anticompetitive tools employed by Microsoft: (1) the series of agreements that the trial court itself held did not violate antitrust law; (2) the inclusion of Internet Explorer in Windows, which the Appellate Court already determined was not illegal; and (3) a random assortment of acts involving Microsoft's discussions with other firms, such as Apple and Intel—none of which led to agreements. In relying on these three factors, the trial court seems to have concluded that, while Microsoft's actions, taken individually, might not constitute violations of antitrust law, the combination of these lawful acts constitutes a violation of law. This approach to antitrust liability has generally been rejected by courts, in part because it fails to provide guidance allowing businesses to understand their legal obligations. Such a rule effectively chills desirable competitive conduct.

Finally, the trial court agreed with the Government's allegation that Microsoft unlawfully attempted to monopolize the market for Web browsing software. This conclusion is directly at odds with the court's own previous finding. In the findings of fact released in November of last year, the trial court found that Microsoft's conduct with respect to Netscape was aimed at preventing Netscape from dominating Web browsing software—not at gaining a monopoly for Microsoft. Under antitrust law, a firm cannot be found liable for attempted monopolization unless it specifically intends to monopolize the market. Seeking to prevent somebody else from acquiring a monopoly is not attempted monopolization.

To summarize, one of the Government's charges was dismissed by the trial court; another flouts a specific decision of the appellate court; and the remaining two simply provide no legal basis as antitrust violations. I am highly confident that the appeals court will once again recognize the fundamental flaws in the trial court's decision and find in favor of Microsoft.

In the meantime, however, let's examine the "remedy" proposed by the Department of Justice and 17 States for these fictional violations. First, and most obvious, is the Government's proposal to break Microsoft into two separate companies. Under the Government plan, Windows would be retained by the new "Operating Systems Business," while the remainder of Microsoft, including its office family of products on its Internet properties, would be moved into a new "Application Business." The Department of Justice plan effectively prohibits these two companies from working together for a period of 10 years and effectively freezes fundamental components of the operating system from improvement, thereby crippling in this fast-moving world of technology the very technology which is one of the principal bases of our present prosperity.

As outrageous as the proposal to break up Microsoft is, the heavyhanded regulations the Government proposes to impose on Microsoft are at least as outrageous.

Mr. President, at this point I ask unanimous consent that an article by Declan McCullagh, published in the April 29, 2000, edition of *Wired News* be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

GOVERNMENT WANTS CONTROL OF MS
(By Declan McCullagh)

Bellevue, WA—If Bill Gates was unhappy with early reports of the government's antitrust punishments, he's going to be plenty steamed when he reads the fine print this weekend.

In two lengthy filings on Friday, government attorneys said they eventually hope to carve up Microsoft into two huge chunks. But until that happens, their 40KB proposal